

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 66 of 1997
AND
SPECIAL CIVIL APPLICATION NO.1028 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KANABHAI RUDABHAI

Versus

MANGROL NAGAR PALIKA

Special Civil Application No.66 of 1997

MR HK RATHOD for Petitioner

MR YS LAKHANI for Respondent No. 1

Special Civil Application No.1028 of 1997

Mr. Y.S. Lakhani for the petitioner.

Mr.H.K. Rathod for the respondent

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 19/03/97

COMMON ORAL JUDGMENT :

Rule. Mr. Lakhani waives service of rule on behalf of respondent in Special Civil Application No.66 of 1997 and Mr. Rathod waives service of rule on behalf

of respondent in Special Civil Application No.1028 of 1997.

The Award dated 1.4.96 passed by the Labour Court, Junagadh is under attack in these Special Civil Applications at the instance of Mangrol Nagar Palika and the son of the deceased workman. It is the common case of the parties that the concerned workman, namely, Rudhabhai Lakhbhai had retired from the Government service and, thereafter, an employment on fixed salary was given to him in the Mangrol Nagar Palika. He was allowed to serve the Mangrol Nagar Palika until 1.11.83 on fixed pay as aforesaid and he was subjected to retrenchment on 1.11.83. At that time he was about 72 years old and was also getting pension from the Government. It is also given out by Mr.Lakhani that 2 sons of the workman are already working in the Municipality. The concerned Workman i.e. Rudhabhai challenged his retrenchment dated 1.11.83 by raising an industrial dispute. The adjudication of this dispute has resulted into the impugned Award dated 1.4.96 whereby the direction has been given for payment of retrenchment compensation, notice pay, gratuity and 25% of the backwages for the period from 1.11.83 to 14.12.90 because 14.12.90 is the date on which the concerned workman had expired. The son of the deceased workman has challenged the denial of 75% of the backwages while Mr.Lakhani on behalf of Mangrol Nagar Palika has challenged the award dated 1.4.96 granting the reliefs as aforesaid to the concerned workman.

I have heard both the sides and have gone through the impugned Award. It is established that the requirements of S.25F had not been followed while retrenching the deceased workman on 1.11.83. Therefore, the relief of retrenchment compensation, notice pay and the amount of gratuity for the period for which he had served Mangrol Nagar Palika is found to be in order. So far as the relief of 25% of the backwages to the deceased workman is concerned, in the light of the fact that he was already 72 years old at the time when he was retrenched and the further fact that 2 of his sons are already working in the Municipality and that he was already getting pension from the Government, I do not find it to be a fit case to sustain the relief of 25% backwages.

Accordingly both these Special Civil applications are decided by modifying the impugned Award dated 1.4.96 upholding the relief of retrenchment compensation, notice pay and gratuity only for the period for which the

concerned workman had actually served the Municipality, rather than continuous service for 20 years, as mentioned in the Award and the amount of gratuity shall be calculated on the basis of the fixed pay drawn by the concerned workman at the time of his retrenchment and no amount of backwages shall be payable. The aforesaid directions have been issued as per the consent of both the sides and this brings an end to the entire controversy for all purposes. Rule is made absolute accordingly in both the matters with no order as to costs.